

**UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
GALVESTON DIVISION**

BRIANNE DRESSEN, *et al.*,

Plaintiffs,

v.

ROB FLAHERTY, White House Director
of Digital Strategy, in his official capacity;
et al.,

Defendants.

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Civil Action 3:23-cv-155

UNOPPOSED MOTION TO VACATE ALL PENDING DEADLINES

Government Defendants respectfully move the Court to VACATE all pending deadlines, including the deadlines set by the Court in its July 23, 2024, Order. *See* ECF. No. 41. There is good cause for this request, specifically that Plaintiffs recently amended their complaint to add claims against certain current and former federal officers or employees in their individual capacities. Undersigned counsel from the Department of Justice are not authorized to represent any individual-capacity defendants unless and until those persons have been served and have secured representation pursuant to 28 C.F.R. § 50.15. Judicial economy would be served by allowing for consolidated and coordinated briefing of any Rule 12 motions that any or all the defendants may put forward, and, more generally, coordinated scheduling among all parties. Because the individual-capacity defendants have not yet secured representation, Government Defendants move unopposed to vacate all pending deadlines to allow the individual-capacity defendants to secure representation, and further propose that the parties submit a Joint Status Report in thirty days, to include a proposed schedule for further proceedings at that time.

Counsel for Government Defendants have conferred with counsel for Plaintiffs and counsel for Stanford Defendants, neither of whom oppose the requests in this motion.

1. On May 22, 2023, Plaintiffs filed the Complaint in this action. *See* ECF No. 1. On October 25, 2023, this Court stayed all pretrial deadlines and proceedings until the Supreme Court sends down its judgement in *Murthy v. Missouri*. *See* ECF No. 36. The Supreme Court issued its decision in *Murthy v. Missouri*, 144 S. Ct. 1972 (2024), on June 26, 2024.

2. On July 22, 2024, Plaintiffs, Government Defendants, and Stanford Defendants (collectively, “parties”) filed a joint motion for entry of a scheduling order and stay of discovery pending a resolution of Defendants’ dispositive motions. *See* ECF No. 39. On July 23, 2024, the Court entered an order granting the parties’ request for a stay of discovery and entering the following proposed schedule for Plaintiffs’ Amended Complaint and Defendants’ dispositive motions:

- Plaintiffs’ Amended Complaint: **September 12, 2024**
- Defendants’ responses to Amended Complaint/dispositive motions: **October 17, 2024**
- Plaintiffs’ response to Defendants’ dispositive motions: **November 15, 2024**
- Defendants’ replies: **December 5, 2024**

3. On September 12, 2024, Plaintiffs filed their Amended Complaint. *See* ECF No. 42. In it, for the first time, Plaintiffs allege claims against certain Federal Defendants in their individual capacity. *Id.* ¶¶ 12, 15, 17, 18, 20, 22, 24. Under Federal Rule of Civil Procedure 12(a)(3), service on the individual-capacity defendants will trigger a 60-day response time for those defendants. Thus, the individual-capacity defendants’ default-

response deadline will necessarily follow the October 17, 2024, deadline currently set for the Government Defendants and Stanford Defendants.

4. Furthermore, undersigned counsel cannot represent individual-capacity defendants until those defendants have completed the process set out in 28 C.F.R. § 50.15 (setting out the process of “[r]epresentation of Federal officials and employees by Department of Justice attorneys or by private counsel furnished by the Department in civil, criminal, and congressional proceedings in which Federal employees are sued, subpoenaed, or charged in their individual capacities”).

5. In the interest of efficiency and to preserve party and judicial resources, Government Defendants propose that the Court VACATE all pending deadlines until the individual-capacity defendants are adequately represented. Once each individual-capacity defendant has obtained representation, the parties intend to reconvene in order to negotiate and propose to the Court a revised briefing schedule that aligns all the response/reply deadlines.

6. Government Defendants further propose that the parties file a join status report on November 4, 2024, proposing a schedule for further proceedings.

A proposed order is attached.

Respectfully submitted,

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Assistant Branch Director

/s/ Faith E. Lowry

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CERTIFICATE OF SERVICE

I certify that on October 4, 2024, a true and correct copy of the foregoing was filed with the United States District Clerk for the Southern District of Texas and electronically served on all counsel of record via the District's ECF system.

/s/ Faith E. Lowry